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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,038	04/18/2005	Dieter Hoffmeier	5067-68PUS	4779
27799 7590 12/23/2008 COHEN, PONTANI, LIEBERMAN & PAVANE LLP 551 FIFTH AVENUE SUITE 1210 NEW YORK, NY 10176				
EXAMINER WEINSTEIN, LEONARD J				
ART UNIT 3746		PAPER NUMBER		
MAIL DATE 12/23/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/526,038

**Applicant(s)**

HOFFMEIER, DIETER

**Examiner**

LEONARD J. WEINSTEIN

**Art Unit**

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 October 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6, 7, 10-13, 15, 16, 18 and 19 is/are pending in the application.  
4a) Of the above claim(s) 1-5, 8, 9, 14 and 17 is/are withdrawn from consideration.  
5) ☒ Claim(s) 6, 7, 10, 12, 13, 15, 16 and 18 is/are allowed.  
6) ☒ Claim(s) 19 is/are rejected.  
7) ☒ Claim(s) 11 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 3, 2008 has been entered.
2. The examiner acknowledges the amendments to claims 6, 7, 15, and 18. The examiner acknowledges that claims 8, 9, 14 and 17 have been canceled. The examiner notes the addition of claim 19.

### ***Claim Objections***

3. Claim 11 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 11 depends from claim 9 which has been canceled. Examination of claim 11 is precluded as being dependent upon a canceled claim.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rexroth et al. US 2002/0076337 in view of Boyd US 3,402,670, as evidenced by Brooks et al. US 6,524,078. Rexroth teaches all the limitations for a submersible motor driven pump including: a motor housing 18, a motor 10 comprising a stator 62 and a rotor 46, the stator 62 being fixed to the motor housing 18, an intake housing 12 fixed to the motor housing 18, the intake housing 12 having an intake connection 14 and a discharge connection 16, an impeller 32 mounted in the intake housing 12 between the intake connection 14 and the discharge connection 16, a shaft 34 on which the impeller 32 is mounted, the shaft 34 being supported for rotation in the motor housing 10 and extending into the intake housing 12, a cylindrical can mounted in the motor housing 10 radially inside the stator 62, said shaft 34 extending concentrically into the can 64 to form a free space between the shaft 34 and the can 64, the rotor 46 being fixed to the shaft 34 in the free space 69, and anti-freeze apparatus, elements 54, 56, and 58, installed in at least one of the housings 18 for protecting the shaft 34.

Rexroth fails to teach the following limitations that are taught by Boyd for a pump including: a submersible pump 11 having an elastomeric mount 101 disposed between a shaft 15 and an impeller 43 that elastically mounts and hold the impeller on the shaft 15 (Boyd - col. 4 ll. 47 – col. 5 ll. 17). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an elastomeric mounting apparatus, as taught by Boyd, for an impeller mounted on a shaft of a submersible pump, as taught by Rexroth, in order to facilitate a means for limiting an

impeller to rotate in a single direction and thereby preventing dirt, grit, or foreign matter from being entrained between a shaft and impeller (Brooks - col. 2 ll. 2-17).

***Allowable Subject Matter***

6. Claims 6, 7, 10, 12, 13, 15, and 16 are allowed.

***Response to Arguments***

7. Applicant's arguments with respect to claim 19 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are cited on form 892 herewith.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEONARD J. WEINSTEIN whose telephone number is (571)272-9961. The examiner can normally be reached on Monday - Thursday 7:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devon C Kramer/  
Supervisory Patent Examiner, Art  
Unit 3746

/Leonard J Weinstein/  
Examiner, Art Unit 3746